

BEFORE THE INTERNAL ADJUDICATION PANEL

HIWU

Case Number: ECM 2024-311
IAP Member Edward J. Weiss

v.

Christophe Clement

[Insert Name of Covered Person]

AMENDED FINAL RULING OF INTERNAL ADJUDICATION PANEL

Section One – Parties

Date of Hearing: 4/1/25 (hearing waived, check here) ☐

Date of Decision: 4/22/25

HIWU Counsel: Geneva N. Gnam, Esq.

Covered Person: Christophe Clement

Counsel/Representative of Covered Person: Joey DeAngelis, Esq. and Clark Brewster, Esq.

Any Third Parties: _____

Section Two - Charges

The Covered Person is charged with violating the following Series 3000 Equine Anti-Doping and Medication Control (ADMC) Program Rules (“Protocol”):

ADMC Program Rule 3312 (Controlled Medication Violation): Flunixin, above the screening limit of 4 ng/mL, was allegedly detected in Covered Person's Covered Horse, Gal in a Rush, following Race 9 at Presque Isle Downs in Erie, Pennsylvania (hereinafter "Race 9").

Section Three – Burdens of Proof and Evidence

A. Pursuant to ADMC Program Rule 3121 (Protocol), HIWU has established the following evidence, set forth in detail below, to the comfortable satisfaction of the hearing panel:

Christophe Clement was the trainer and responsible for the horse Gal in a Rush (the "Covered Horse"), which ran in Race 9. Flunixin was administered to the Covered Horse, 10 days prior to Race 9, as the parties have stipulated. Specifically, Assistant Trainer Miguel Clement, for whom the Respondent is responsible, admits that Flunixin (commonly known as Banamine) was administered to the Covered Horse on September 10, 2024, 10 days prior to Race 9.

In post race testing, the Pennsylvania Equine Toxicology Research Laboratory (PETRL) reported it detected Flunixin in an amount which exceeded the screening limit (which screening limit is 4 ng/mL)(see Rule 3312(e)). Further testing occurs only if Flunixin is detected in the Post-Race Sample above the applicable Screening limit. Rule 33112(e)(1). PETRL is an accredited laboratory and thus is entitled to a presumption that it conducted Sample analysis and custodial procedures in accordance with the Laboratory Standards (ADMC Program Rule 3122(c)). PETRL conducted confirmation testing which determined the presence of Flunixin in both the A and B samples that were tested.

HIWU also established that Dr. King, Respondent's expert, lacks experience in a equine laboratory, although she generally has laboratory experience and is responsible for running a laboratory.

B. Pursuant to ADMC Program Rule 3121 (Protocol), the Covered Person has established the following evidence, set forth in detail below, by a balance of probability:

The Covered Person was able to rebut the presumption to which HIWU is entitled as set forth in Section A above, by a balance of probability, as follows:

Departures from Laboratory Standards reasonably could have caused the Adverse Analytical Finding. Rule 3122(c) and (d). There was a lack of an independent quality control sample and the internal standard recovery was inconsistent. A reliable internal standard and quality control sample are required by the ADMC Rules. See 63009(e)(4), 6314(b) and 6314(b)(1). There was no dispute that there were no independent quality control samples. Specifically, there were no quality control samples that were separate from the calibrators. There also was what appears to have been a questionable variance in the recovery rate. Respondent showed that there was an upward adjustment of the testing equipment of 300 to 400% to compensate for a depression in the internal standard. While this may have been proper and may not have led to a false positive, there was not a satisfactory explanation presented that would allow the IAP Member to confidently conclude the screening in this case was reliable and a finding above the screening limit was accurate. The potential problems pointed out by Respondent reasonably could have caused the AAF. It is not conclusive that these problems caused the AAF, but they need not have done so for the Respondent to be able to rebut the presumption and shift the burden to HIWU.

Respondent identified sufficient possible problems and deficiencies in the testing that cast some doubt about the scientific reliability of the testing that resulted in the AAF. After the burden shifted back to HIWU, HIWU did not present evidence sufficient to demonstrate the testing procedures at issue were all certified as fit for purpose and how, when and by whom that was done. The issues identified by Respondent could have led to false positives. While IAP Member is comfortably satisfied that there was at least some Flunixin present the Covered Horse for Race 9, that is not sufficient given that HIWU was required to first show that the initial screening was reliable and accurate to justify further testing leading to the issuance of the AAF. The IAP Member is not comfortably satisfied that there was a reliable finding that Fluxixin was present in a sufficient quantity to have exceeded the Screening Limit and thus to have made it proper to proceed with the Confirmation Process (under Rule 1020, a finding below the screening limit precludes pursuing further testing and issuance of an AAF). The poor internal standard recovery and evidence presented of an upward adjustment by PETRL showed that there could have been an overestimation of the amount of Flunixin. That upward adjustment and whether it led to reporting accurate results was not adequately explained by HIWU's expert or otherwise. Respondent presented evidence that there was an upward adjustment for a weaker signal of four times. That adjustment was not sufficiently reliable and was not adequately explained or justified by HIWU's expert to the comfortable satisfaction of the IAP Member. In particular, no HIWU witness or any of the exhibits were able to tie the specific testing methods used to any accreditation or validation. While it is possible the adjustments made by PETRL were appropriate and can be relied upon, that was not adequately explained and justified. Thus, and while it is a close call, the testing methods and resulting findings are not sufficiently reliable for a finding that HIWU carried its burden of proof to a comfortable satisfaction.

Section Four – Violations Determined

Based on the applicable ADMC Program Rules (Protocol) listed above in Section Two, and based upon the established evidence as set forth in Section Three above, the hearing panel has determined that the Covered Person has violated the following ADMC Program Rules (Protocol):

No violation was determined and the charge should be dismissed for reasons stated above.

HIWU has not met its burden, which was shifted back to it by the showings made by the Covered Person as described above. HIWU's expert, Margaret Wilding, was not able to tie her opinion to any accreditation standard or guidance document at the Hearing (which was held on March 20, 2025 and kept open until April 1, 2025 in order to allow the parties to file post hearing briefs and submit a stipulation regarding what Assistant Trainer Miguel Clement would have testified to had he been called as a witness).

Section Five – Finding of No Fault/Negligence or No Significant Fault/Negligence

Pursuant to ADMC Program Rules 3324 and 3325 (Protocol), a Covered Person is entitled to elimination or reduction of any period of Ineligibility if the hearing panel determines that the Covered Person has established that he or she bears No Fault or Negligence, or No Significant Fault or Negligence for the Violation(s). Based on the foregoing evidence, the IAP Member finds that the Covered Person ☐ **has** ☐ **has not** (*check one*) established that he or she bears **No Fault or Negligence**; or the Covered Person ☐ **has** ☐ **has not** (*check one*) established that he or she bears **No Significant Fault or Negligence** for the Violation(s). Where the Covered Person has established that he or she bears No Fault or Negligence or No Significant Fault or Negligence for the Violation(s), the following evidence supports this conclusion:

N/A

Section Six – Elimination, reduction, or suspension of period of Ineligibility and/or other Consequences for reasons unrelated to degree of Fault

Pursuant to ADMC Program Rule 3326(b) – (d) (Protocol), the Covered Person is entitled to elimination, reduction, or suspension of a period of Ineligibility and/or other Consequences if he or she has satisfied any of the following (*check all that apply*):

- ☐ Rule 3326(b): Voluntary Admission of a Controlled Medication Rule Violation in the absence of other evidence.
- ☐ Rule 3326(c): Application of multiple grounds for reduction of a sanction; where the Covered Person has established entitlement to a reduction or suspension of period of Ineligibility under two or more of Rules 3324, 3325, or 3326.
- ☐ Rule 3326(d): Reductions for certain Controlled Medication Rule Violations based on early admission and acceptance of sanction; where the Covered Person admits Violation(s) and accepts Consequence(s) within seven (7) days of receiving Charge Letter.

Based on the application of these Rules, the Covered Person is entitled to the following elimination, reduction, or suspension of a period of Ineligibility and/or other Consequences:

N/A

Section Seven – Aggravating Circumstances

HIWU has established the following aggravating circumstances to the comfortable satisfaction of the hearing panel (*write N/A if none*):

N/A

Based upon the Aggravating Circumstances, the Covered Person's period of Ineligibility is increased by ____ months (up to 6 months), and an additional fine in the amount of \$_____ is imposed (up to \$5,000.00 USD or 5% of the purse, whichever is greater).

Section Eight - Consequences

The following Consequences are imposed upon the Covered Person for each violation that has been established in this case:

N/A

Section Nine – Penalty Points

The total penalty points issued against Covered Person as a result of this final decision are: ⁰_____.

The Covered Person has _____ prior penalty points, bringing his or her current total penalty points to _____.

Subject to ADMC Program Rule 3364 (Protocol), this decision is final and binding pursuant to ADMC Program Rule 3363 (Protocol).

/s/ Edward J. Weiss

Signature of IAP Member